

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re: AUTOMOTIVE PARTS ANTITRUST LITIGATION	Case No. 12-md-02311 Honorable Marianne O. Battani
In re: FUEL INJECTION SYSTEMS DIRECT PURCHASER ACTIONS	2:13-cv-02201-MOB-MKM
<p>THIS RELATES TO:</p> <p>IRVING LEVINE AUTOMOTIVE DISTRIBUTORS, INC.,</p> <p><i>Plaintiff,</i></p> <p>vs.</p> <p>AISAN INDUSTRY CO., LTD, et al.,</p> <p><i>Defendants.</i></p>	2:15-cv-13423-MOB-MKM

**[PROPOSED] ORDER GRANTING MOTION TO INTERVENE AND SUBSTITUTE
CLASS REPRESENTATIVE PLAINTIFF**

Plaintiff Irving Levine Automotive Distributors, Inc. (“Levine”), and proposed intervenor, Vitec, L.L.C, (“Vitec”) (together “Movants”), through their undersigned counsel, have moved jointly for an order permitting Vitec to: (i) intervene in this action pursuant to Rule 24 of the Federal Rules of Civil Procedure, either as of right or by permission; and (ii) be added to the action as a class representative plaintiff. Movants also seek, to the extent necessary, leave pursuant to Rule 15(a)(2) to file an amended complaint reflecting substitution of Vitec as the sole going-forward named class representative plaintiff.¹

¹ As indicated in the joint motion, upon entry of this Order, Plaintiff Levine will file a Rule 41(a) Notice of its voluntary dismissal without prejudice. Because no class has been certified, and defendants have not yet responded to the complaint, nor moved for summary judgment, that Rule

At the time of the motion's filing, there were only two class representative plaintiffs in the Fuel Injection Systems Direct Purchaser Actions, Plaintiff Levine and Plaintiff All European Auto Supply, Inc. ("All European"), each having filed their own separate class action complaints. In conjunction with the present motion, All European separately filed in its docket, 2:15-cv-11827, a Rule 41(a) Notice of the voluntary dismissal of its action without prejudice. Because no class has been certified, and defendants had not yet responded to the complaint, nor moved for summary judgment, that Rule 41(a) notice effectuated dismissal without prejudice of that action without any need for further order from this Court. Thus, at present the *Levine* action is the only pending Fuel Injection Systems Direct Purchaser Action. Defendants have yet to respond to any Fuel Injection Systems Direct Purchaser Action complaint, and discovery has not yet commenced.

In April 2017, this Court granted motions to dismiss direct purchaser action class complaints in other Auto Parts cases, namely in the *Spark Plugs* and *Oxygen Sensors* cases, with reference to various arbitration agreements. According to the motion, Plaintiff Levine has an arbitration agreement, but Vitec does not. Absent intervention and substitution, Vitec argues that, in light of this Court's prior ruling, its interests in the continued maintenance of the class litigation in the Fuel Injection Systems Direct Purchaser Actions may be impaired.

UPON DUE CONSIDERATION, and GOOD CAUSE appearing therefore, it is hereby ORDERED, DECREED, and ADJUDGED that the motion be and hereby is GRANTED.

IT IS HEREBY ORDERED that the motion to intervene is GRANTED and that Vitec be added to the action as a named class representative Plaintiff. Upon Plaintiff Levine's prompt filing of its Rule 41 Notice, Vitec may file and serve an amended complaint reflecting Vitec as the sole

41(a) notice effectuates dismissal without prejudice of Plaintiff Levine without any need for further order from this Court.

named class representative plaintiff. Upon filing, the docket in 2:15-cv-13423 will be updated to reflect the substitution of plaintiff. Service of the amended complaint will be made consistent with this Court's prior orders.

Dated: November __, 2017

MARIANNE O. BATTANI
United States District Judge